

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

**ADRIAN CAZARES,
AUSTIN G. SCHWARZ,
JORGE DIAZ,
IGNACIO ANDRES ZAZUETA,**

Petitioners,

v.

DEWAYNE HENDRIX, Warden,
FCI Sheridan

Respondent.

Case Nos. 3:20-cv-02019-AC
3:20-cv-02020-AC
3:20-cv-02065-AC
3:20-cv-02123-AC

ORDER

IMMERGUT, District Judge.

On November 9, 2021, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”), ECF 27, in these consolidated cases.¹ The F&R recommends that this Court GRANT IN PART Petitioners’ respective Petitions for Writ of Habeas Corpus.² On

¹ On April 5, 2021, the court consolidated, ECF 14, the following cases: Nos. 3:20-cv-02019-AC (*Cazares*); 3:20-cv-02020-AC (*Schwarz*); 3:20-cv-02065-AC (*Diaz*); and 3:20-cv-02123-AC (*Zazueta*).

² No. 3:20-cv-02019-AC, ECF 1 (*Cazares* Petition); No. 3:20-cv-02020-AC, ECF 1 (*Schwarz* Petition); No. 3:20-cv-02065-AC, ECF 2 (*Diaz* Petition); No. 3:20-cv-02123-AC, ECF 2 (*Zazueta* Petition).

December 7, 2021, the parties filed a Joint Status Report indicating that no party will file objections. ECF 31.

DISCUSSION

Under the Federal Magistrates Act (“Act”), as amended, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s F&R, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act “does not preclude further review by the district judge, *sua sponte*” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

No party having filed objections, this Court has reviewed the F&R and accepts Judge Acosta’s conclusions. The F&R, ECF 27, is adopted in full. Petitioners’ habeas actions are GRANTED IN PART. Respondent must review each of the consolidated petitioner’s case files and calculate and award applicable Earned Time Credits without delay and in accordance with the court’s guidance concerning what constitutes a qualifying Evidence Based Recidivism Reduction program or Productive Activity and what constitutes a day under the First Step Act. *See* ECF 27 at 21.

IT IS SO ORDERED.

DATED this 15th day of December, 2021.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge